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EXAMINER

KAYRISH, MATTHEW

ART UNIT

PAPER NUMBER

2627

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/798,476

Applicant(s)

BANKO, JOSHUA DAVID

Examiner

MATTHEW G. KAYRISH

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 May 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed 5/13/2008 have been fully considered but they are not persuasive.

Regarding the argument that Takagi does not disclose an integrated optical drive bezel that is coupled to an optical drive, the examiner respectfully disagrees. Takagi discloses an integrated optical drive bezel when items 12 and 13 are attached. This attachment is described in detail in column 5, lines 4-30. Regarding the argument that the functional and cosmetic bezels are integrated as one before being attached to the optical disk drive to minimize misalignment, this is a product by process limitation that is directed to the product per se, no matter how actually made, see *In re Hirao*, 190 USPQ 15 at 17 (footnote 3, CCPA, 5/27/76); *In re Brown*, 173 USPQ 685 (CCPA 5/18/72); *In re Luck*, 177 USPQ 523 (CCPA, 4/26/73); *In re Fessmann*, 180 USPQ 324 (CCPA, 1/10/74); *In re Thorpe*, 227 USPQ 964 (CAFC, 11/21/85). The patentability of the final product in a "product by process" claim must be determined by the product itself and not the actual process and an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. Specifically, no matter what the order of assembly is, the final product is an integrated optical disc drive bezel with a cosmetic and a functional bezel in attachment and aligned such that the optical disc can be correctly inserted. This is disclosed by Takagi. Furthermore, the order of assembly is irrelevant, and the cosmetic bezel and the

functional bezel can have been attached to each other when the integrated bezel was attached to the disc drive.

Regarding the arguments that one would not be motivated to modify Takagi to arrive at the presently claimed invention, specifically because the goal of Takagi is to provide a control unit that can be removed, this is true. However, the permanent retaining structures [17 and 20] are permanently mounted on item 12, not on the disc drive [11] itself. Item 13 can have been integrated by items 17 and 20 of item 12 prior to permanently attaching item 12 to the disc drive [11]. For this reason, the arguments are not persuasive and rejection remains.

Claims 1, 12 and 25 have been amended. No claims have been canceled. Claims 1-36 remain pending.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4, 6, 7, 12, 25, 26 and 29-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi (US Patent Number 5510957).

Regarding claims 1 and 25, Takagi discloses:

An enclosure (figure 1, item 11);

An optical drive coupled to the enclosure (the drive is on the inside, and must be coupled to the enclosure in order to be stabilized within);

An apparatus (columns 4 & 5, lines 66-67 & 1-3) comprising:

A functional bezel (figure 1, item 12) having a first opening (figure 1, item 12d) to receive an optical disk and a first plurality of attachment features (figure 1, item 17a);

A cosmetic bezel (figure 1, item 13) having a second opening (figure 1, item 13b) to receive the optical disk and second plurality of attachment features (figure 1, item 17b), wherein the first opening and second opening are in alignment (column 4, lines 58-65);

Wherein the functional bezel and the cosmetic bezel are attached to form an integrated optical drive bezel (column 5, lines 4-30), the integrated optical bezel configured to be coupled to an optical drive (figure 1, item 12 is coupled to item 11) after the functional bezel and the cosmetic bezel are attached to form the integrated optical drive (product by process).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the functional bezel and the cosmetic bezel together prior to attaching the integrated bezel to the disc drive, because this is a simple product by process limitation which will yield the same final product when they are attached after the cosmetic bezel is attached to the disc drive.

Regarding claims 2 and 29, Takagi discloses the features of base claims 1 and 25 as stated in the 103 rejections above, and Takagi further disclosing:

Regarding claim 12, Takagi discloses the features of claim 12 which are in common with those features previously disclosed in claim 1, as stated in the 103 rejection above, and Takagi further discloses:

Wherein the slot remains open when a disk is in the optical drive (figure 1, slot remains open).

Regarding claim 26, Takagi discloses the features of base claim 25, as stated in the 103 rejection above, and Takagi further discloses:

Wherein the optical drive is rigidly mounted to the enclosure (internal components are inherently supported and must be stabilized).

4. Claims 3, 9, 11, 13-20, 22, 24, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi, in view of Kan-o (US Patent Number 6910217).

Regarding claims 3 and 27, Takagi discloses the features of base claims 1 and 25 as stated in the 103 rejection above, but fails to specifically disclose:

A slot loading optical disk drive bezel assembly comprising a cosmetic screen attached to the cosmetic bezel.

Kan-o discloses:

An apparatus (figure 6) comprising:

A cosmetic bezel (figure 4, item 4) having an opening to receive the optical disk (figure 4, item 3) and a plurality of attachment features (figure 1, unlabeled at sides of item 14);

A cosmetic screen attached to the cosmetic bezel (figure 3, item 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include a cosmetic screen in the optical drive bezel of Takagi, as taught by Kan-o, because it will remove dust from a disk as it enters the optical drive as stated in column 5, lines 41-48.

Regarding claims 9, 22 and 28, Takagi discloses the features of base claims 1, 14 and 25 as stated in the 103 rejection above, but fails to specifically disclose:

A cosmetic bezel, which includes a recess configured to receive a cosmetic screen.

Kan-o discloses:

A cosmetic bezel, which includes a recess configured to receive a cosmetic screen (figure 13, item 24 has a recess for item 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a recess in Takagi's cosmetic bezel to receive the cosmetic screen, as taught by Kan-o, because, by providing this recess, the cosmetic screen has a definite location within the bezel, therefore, ensuring that cosmetic screen will be held in the proper place at all times, which will ensure that the screen is always performing the proper function, yielding the same predictable results.

Regarding claims 11 and 24, Takagi discloses the features of base claims 1 and 14 as stated in the 103 rejections above and below, but fails to specifically disclose:

A cosmetic bezel, which includes a cosmetic screen, that performs at least one of minimizing contaminants into the optical disk drive and wiping the optical disk as the optical disk is being inserted into the optical drive.

Kan-o discloses:

A cosmetic bezel, which includes a cosmetic screen, that performs at least one of minimizing contaminants into the optical disk drive and wiping the optical disk as the optical disk is being inserted into the optical drive (column 5, lines 45 & 46).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Takagi et al with a cosmetic screen that prevents dust, as taught by Kan-o, because this will ensure a clean surface of the optical medium, which will allow the disc to be read clearly and is thus an accurate signal is provided.

Regarding claims 13 and 14, Takagi discloses the features of base claim 12 as stated in the 103 rejection above, and Takagi further discloses:

A cosmetic screen disposed between the functional bezel and a cosmetic bezel (figure 1, front item 12 meets the back of item 13, thereby placing the screen in-between).

Takagi fails to specifically disclose:

The cosmetic screen fixedly attached to the cosmetic bezel.

Kan-o discloses:

The cosmetic screen fixedly attached to the cosmetic bezel (figure 4, item 4 is attached to item 14).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to attach the cosmetic screen of Takagi to the cosmetic bezel, as taught by Kan-o, because this will keep the cosmetic screen in the correct position, therefore, ensuring that cosmetic screen will be held in the proper place at all times, which will ensure that the screen is always performing the proper function, yielding the same predictable results.

Regarding claim 15, Takagi discloses the features of claim 15 that are in common with the features previously disclosed in claim 1, as stated in the 103 rejection above, therefore, claim 15 is met on the same basis.

Regarding claim 16, Takagi discloses the features of claim 16 that are in common with the features previously disclosed in claim 2, as stated in the 103 rejection above, therefore, claim 16 is met on the same basis.

Regarding claims 17 and 18, Takagi discloses the features of claims 17 and 18 that are in common with the features previously disclosed in claim 4, as stated in the 103 rejection above, therefore, claims 17 and 18 are met on the same basis.

Regarding claim 19, Takagi discloses the features of claim 19 that are in common with the features previously disclosed in claim 6, as stated in the 103 rejection above, therefore, claim 19 is met on the same basis.

Regarding claim 20, Takagi discloses the features of claim 20 that are in common with the features previously disclosed in claim 7, as stated in the 103 rejection above, therefore, claim 20 is met on the same basis.

5. Claims 5, 8 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi, in view of Selby et al (US Patent Number 5793728).

Regarding claim 5, Takagi discloses the features of base claim 1 as stated in the 103 rejection above, but fails to specifically disclose:

Wherein the functional bezel includes a plurality of mounting points for mounting the functional bezel to various configuration of various optical drives.

Selby discloses:

An apparatus (figure 2) comprising:

A functional bezel (figure 3, item 10) having a first opening (figure 3, item 32) to receive an optical disk (figure 2);

Wherein the functional bezel includes a plurality of mounting points for mounting the functional bezel to various configuration of various optical drives (figure 3, item 10 has a variety of pins and holes for mounting).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the bezel of Takagi with a variety of mounting points, as taught by Selby, because this will provide for multiple mounting points, which

when all used concurrently, will provide a very stable bezel integration, as would be expected.

Regarding claims 8 and 34, Takagi discloses the features of base claims 1 and 25 as stated in the 102 rejection above, but fails to specifically disclose:

A disk guide that includes a ramp feature to point the optical disk down into the optical drive during injection and to point the optical disk up during ejection.

Selby discloses:

A disk guide (figure 4, item 46) that includes a ramp feature (figure 4, item 48) to point the optical disk down into the optical drive during injection and to point the optical disk up during ejection (columns 3 & 4, lines 44-56 & 1-7).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a ramp feature on the disk guide of Takagi, as taught by Selby, because this ramp feature will direct the disk in the right direction so that it will not be miss-inserted into the disk drive, as mentioned in columns 3 & 4, lines 44-56 & 1-7.

6. Claim 10, 35 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi, in view of Sugita et al (US Patent Number 6931649).

Regarding claims 10, 35 and 36, Takagi discloses the features of base claims 1 and 25 as stated in the 103 rejection above, but fails to specifically disclose:

Wherein the second opening in the cosmetic bezel is larger than the first opening in the functional bezel to facilitate injection or ejection of the optical disk and the functional bezel facilitates slot loading of the optical disk into the optical drive.

Sugita discloses:

An apparatus (figure 1) comprising:

A functional bezel (figure 4) having a first opening (figure 4, item 19) to receive an optical disk (column 5, lines 15-19);

A cosmetic bezel (figure 4, item 5) having a second opening (figure 4, item 11) to receive the optical disk (column 5, lines 55-62), wherein the first opening and the second opening are in alignment (column 5, lines 55-62);

Wherein the second opening in the cosmetic bezel (figure 3, item 11) is larger than the first opening in the functional bezel (figure 4, item 19) to facilitate injection or ejection of the optical disk (11 is larger than 19 to facilitate injection) and the functional bezel facilitates slot loading of the optical disk into the optical drive (the optical disk drive is slot loading).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide Takagi with the functional bezel slot to be smaller than the cosmetic bezel slot, as taught by Sugita, because the slot will become larger on the inside, which allows for more room on the inside, resulting in more room for internal operation and less chances of collision.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi and Kan-o, as applied to claim 14 above, and further in view of Selby et al.

Regarding claim 21, Takagi and Kan-o disclose the features of base claim 14 as stated in the 103 rejection above, but fail to specifically disclose the features of claim 21 that are in common with the features previously disclosed in claim 8. Selby discloses the features of claim 21 that are previously disclosed in claim 8 as stated in the 103 rejection above, therefore, claim 21 is met on the same basis.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Takagi and Kan-o, as applied to claim 14 above, and further in view of Sugita et al.

Regarding claim 23, Takagi and Kan-o disclose the features of base claim 14 as stated in the 103 rejection above, but fail to specifically disclose the features of claim 23 that are in common with the features previously disclosed in claim 10. Sugita discloses the features of claim 23 that are previously disclosed in claim 10 as stated in the 103 rejection above, therefore, claim 23 is met on the same basis.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW G. KAYRISH whose telephone number is (571)272-4220. The examiner can normally be reached on 8am - 5pm M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrea Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

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Matthew G. Kayrish
/M. G. K./
Examiner, Art Unit 2627
8/16/2008

***/Brian E. Miller/
Primary Examiner, Art Unit 2627***